among the very highest in the country.[20]

Shareholders certainly have no cause to complain.[21] According to Ameritech Michigan's most recent annual report to stockholders (March 1996), "1995 profits surged 119% on revenue growth of 6.8%"

> Since our stock began trading in 1983, Ameritech investors have earned a cumulative total return of 965%-more than double the total return of 457% for the S&P 500.
>
> Ameritech has raised its dividends to investors every year we've been in business---12 in a row. Our December 1995 dividend increase of 6% was the largest among our peers since 1991. (at p. 2)

••••••••

1995 was our first full year to benefit from regulatory reforms. In 1995, we became the first regional communications company with no regulatory limits on earnings in any jurisdictions, state or federal. Now we can keep all we earn... (at p. 4)

••••••••

Since 1993[22], our revenue growth rates have doubled to almost 7% from a historical 3%. Revenues grew a record 11% in the fourth quarter of 1995. Ameritech has achieved nine consecutive quarters of double digit profit growth through the end of 1995, up substantially from our historical annual profit growth of 4% to 5%.

We will continue the transformation of our corporate culture into one far better equipped for the challenges of the competitive marketplace. In 1995, we successfully recruited outstanding managers from strong marketing companies such as Proctor & Gamble and Kraft... (at p.5)

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[20] Based upon the commonly accepted indicators of revenues per access line/costs as a percentage of revenue per line. The ARMIS Analyst Financial Factbook 1995 Yearbook.

[21] See Attachment A, "Ameritech's Net Climbs 38% as Profit Before One-Time Items Increases 10%", Wall Street Journal, January 14, 1997. p. B7.

[22] The year that dramatic management changes at Ameritech resulted in engineering-focused management being replaced with sales and marketing-focused management. It is this shift in management that is linked to Ameritech's declining service quality.

Ameritech Michigan's recent request for a rate hike for local services even as its profits spiral, illustrates the absence of a competitive market. More than that, it is another indication of its transparent desire to have still another gusher of funds from captive ratepayers with which to out spend and out fight those that seek to compete with it.

6. The multi-millions gained from excessive local rates in Michigan are being spent not in maintaining and upgrading the infrastructure in Michigan, but rather in meeting the "needs" of Ameritech's customers in 40 other countries and 49 other states.

A review of Ameritech annual reports and 10 K filings demonstrates that Ameritech has been investing billions in operations in other countries: in New Zealand (an initial $2.5 billion investment in the purchase of New Zealand Telecom which as of 1995 represented a 25% interest); a 1/3 interest in a Hungary telecommunications company, having initially invested $437.5 million in 1993; a $4.4 billion dollar investment in a state-of-the-art two-way, video cable network in Japan.

> Including our pending investment in Belgium, our international interests will grow to nearly $4 billion in value in 1996. Today we help our customers communicate in Hungary, New Zealand, Poland and Norway; we'll start to serve customers in Belgium and China in 1996. (1996 Report at 16); [emphasis supplied.]

C. Innovation/New Services: In a competitive market there should be innovation and more choices of services. In the Michigan market, Ameritech Michigan has not been providing residential consumers with innovation or new service choices for their needs. Rather it cites pre-MTA services, services for other customer classes, or its own version of services already offered by other providers.

1. Monopolistic behavior. One monopolist trait significantly detrimental to consumers is the sluggish pace at which new products and services are developed because of the monopolist's insulation from competitors nipping at its heels. The

record established in conjunction with divestiture abounded with testimony citing examples of services and technologies that were brought to the attention of the old Bell system and ignored by it.

An array of entrepreneurs developed features now taken for granted such as Call Waiting that were delayed from introduction because of such monopolistic foot dragging. Divestiture's infusion of competition into equipment manufacturing, for example, resulted in thousands of new manufacturers and the introduction of new services and features as well as features and services that had long been stifled.

2. Imitation not innovation Ameritech Michigan's service offerings are essentially neither "new", nor responsive to residential consumers. Rather, in some instances the services are Ameritech Michigan's version of services already offered by other providers; in other instances the new offerings are at best responsive to other customer classes.

In its Submission, and in its most recent annual report to its investors,[23] Ameritech Michigan describes its many new consumer service offerings. Depicted in its annual report are the three prongs of its growth strategy. Strategy One: be the best full-service communications company to their core customers. Strategy Two: introduce new services for customers. Strategy Three: reach further into the global market.

A review of the nature and target market of those services is telling. The services cited in Strategy One as responsive to consumers are: cellular, paging, Caller-ID, the Internet, additional lines (for modems, etc.), manufacture of telephones, high-speed data, and wholesale local services to competitors. Each item has either been offered by Ameritech Michigan for some time and/or is its

[23] Annual Report to Stockholders filed March 1, 1996

version of what other providers have offered to consumers. This is hardly "innovation".

Cited as part of Strategy Two's "new" service offerings are security monitoring, cable TV networks, and long distance--all offered by other providers--as well as services for business and government such as electronic commerce, desktop managed services, on-line travel, and library services. Clearly the current market as well as the future which Ameritech describes to its investors is not one of innovation as much as it is imitation, and certainly it is not aimed at the majority of its customers. These are the residential consumers who not coincidentally will continue to have the fewest choices--if any--of local service providers among the various customer classes.

D. In a competitive market the incumbent should maintain or improve service quality: Ameritech Michigan has recently disinvested in the network and its service quality is in serious decline.

Frankly, the vast majority of Michigan ratepayers are not interested in how well Ameritech may be serving customers in Hungary, New Zealand, Singapore or Japan. The customers in Monroe, Detroit, Hudsonville, etc., are exasperated at the poor service they're getting in Ameritech's own back yard. At MPSC-sponsored public meetings held statewide in the fall of 1996, the attendance was far greater than usual and that increase was largely attributable to anger and frustration at Ameritech Michigan. Consumers showed up and shouted out their complaints, not only about unfair and exorbitant rates, but about the ever-increasing headaches and frustration of trying to get decent service out of this monopoly local phone company. Last year the MPSC was forced to triple the staff assigned to dealing with such complaints and they are still overwhelmed.[24]

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[24] Among the more common complaints: lengthy delays in reaching customer service personnel on the phone; long delays and incomplete work in service installation; busy signals and long waits when reporting service breakdowns, followed by further

Authority for entering the long distance market must be withheld until Ameritech Michigan demonstrates it is providing quality service to millions of local customers who have no choice of providers.

1. Both the MTA and federal act identify the importance of service quality for all of its customers.

Quality of service is included as an express purpose of the MTA

> Sec. 101.
> (c) Restructure regulation to focus on price and quality of service...
> [484.2101] [emphasis supplied].

The Telecommunications Act of 1996 recognizes quality service as a fundamental right of all consumers.[25] Congress has also included an additional service quality commitment in the federal act, recognizing not only that all consumers have a right to quality service but directing that advanced telecommunications capability be made available to all Americans, so that they can originate and receive high-quality voice, data, graphics, and video telecommunications using any technology.[26] InterLATA entry is the only incentive that regulators have at their disposal to help assure ratepayers that legislative commitments to service quality are fulfilled.

Instead of improving its commitment to service quality since passage of the

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delays in getting service restored; billing errors and charges for services rendered up to two years prior to billing; increased pressure from customer service personnel to buy new features and services.

[25] Sec. 254(k); with respect to competitors' express service quality rights, See Sec. 251(c)(2)(C).

[26] Sec.706. Yet revised quality of service standards in Michigan include no standards or measurements for data transmission and video. The substitute is a vague and unenforceable measurement for noise related to power influence, a substitute created of Ameritech Michigan's persistent failure to comply with the previous specific standard.

MTA, Ameritech Michigan apparently has recognized that the bulk of its 5 million local subscribers will have no choice for local service for at least several years (and that others may never have a choice).

It is recognized that the Commission is unlikely to undertake any additional service quality standards responsibilities. Instead discretion will continue to be left to the states as to whether to adopt and enforce service quality rules.[27] This would be regrettable in light of the efficiency that could result from uniformity if the federal standard were set at or above the strictest state standards. Nevertheless, it is assumed that the states will continue to play the primary role in assuring service quality.[28]

In light of the decreased frequency with which that data will be made available from the Commission,[29] ratepayers look to state regulators to fill this void. Providing such information is inseparable from the consumer education role regulators can and should play. Unless consumers receive accurate and plain English explanations of what the service quality standards are, and independent verification of the accuracy of provider assertions of such performance, they cannot make meaningful and intelligent marketplace decisions. The reports should

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[27] Rules established by the states must be on a competitively neutral basis.

[28] Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Recommended Decision, FCC 96J-3 (November 8, 1996) and Erratum, FCC 96J-3 (November 19, 1996). In its discussion of service quality contained in Section IV, pars. 93-106, the Joint Board assumes that the states will continue their role and that the Federal Communications Commission (FCC) will not increase the performance data solicited.

[29] In its Order dated December 17, 1996, the FCC has significantly reduced the requirements previously imposed on price cap regulated carriers for submitting Automated Reporting Management Information System (ARMIS) Reports data. CC Docket No. 96-193, AAD 95-91.

be sworn to as a further disincentive for distortions.[30] That information should be regularly made available as it would provide an incentive for improved performance by all carriers, and it would enable customers to better pursue accountability---all factors which would stimulate the very competition the legislation seeks to promote.

If residential customers had meaningful competition in the local market, Ameritech Michigan would probably soon come to see that consumer price and service quality are far more important to telephone customers[31] than a profusion of service choices. As auto manufacturers certainly understand, enchantment with accessories wanes very quickly if on a regular basis the engine does not start. Ameritech Michigan is so dazzled with its service option accessories that it apparently does not realize or does not care that its engine is falling apart and that customers are angry. If there were a competitive local market, Ameritech Michigan would have to be responsive in order to avoid the risk of losing such a large part of its base.

Network Disinvestment The "Purpose" section of the MTA makes clear that relaxed regulation and a streamlined process for rate setting and rate adjusting were to act as incentives "for increasing investment in the telecommunications

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[30] On January 16, 1997 it was reported in the Ohio media that Ameritech was under fire again because of service complaints. "The Public Utilities Commission of Ohio staff and Ohio Consumers' Counsel are concerned this time about a high volume of complaints, but also that Ameritech may have submitted inaccurate, incomplete or misleading information." The commission previously announced it was auditing the state's largest telephone company. "State Questions Accuracy of Ameritech Responses" Alan Johnson, Columbus Dispatch.

[31] "Customer Care Special", Telephony, November 6, 1995.

infrastructure." Sec. 101. (d). If Ameritech Michigan were presently or imminently facing competition for its core business, it simply could not afford to neglect the network, yet it has disinvested in the network as discussed above.

2. <u>Ameritech Michigan's deteriorating service demonstrates that it is not fulfilling that commitment to competitors, and even less so to residential customers.</u>[32]

The increased service problems Ameritech Michigan consumers face include: long delays waiting for new service to be installed; repeated calls required before installation and repair arrangements are completed; large number of problems going undiagnosed and uncorrected; long delays entailed attempting to reach repair and business offices; calls interrupted with static on the line or interference from nearby radios; inability to even place a call because of increasing "fast busy" signals as described below; inadequate information on telephone bills, resulting in still more time-consuming inquiries, or resulting in charges for services the customer did not request, does not need, and perhaps cannot afford.

Evidence of Ameritech's serious quality problems is reflected in various

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[32] An example of the disparity of service between customer classes is illustrated in the most recent FCC ARMIS reports for which a narrative analysis has been prepared. [3rd Q 1995]. It shows that on a nationwide basis, with regard to the measure of putting out-of-service lines back into operation, the LECs respond to the needs of their interexchange carrier customers within 5 hours; their business customers within 18 hours; and their residential customers within 26 hours. The five hour standard is what they can, should, and <u>used to regularly meet</u> for residential customers in previous years. With respect to many of the standards, the fact that Ameritech Michigan is supposed to provide competitors with "the same quality as their own.." should be of small comfort to competitors considering how poor service has become systemwide as evidenced by the complaint filed by AT&T against Ameritech Michigan for alleged service quality violations. <u>See</u> Case No. U-11240.

reports, including those of the Michigan Public Service Commission.

> Ameritech Michigan's complaints increased 82% in 1995, due, in part, to a large number of complaints related to Repair and Maintenance. A series of summer storms went through the company's service territory, and it took as much as two weeks for the company to respond to some of the repair reports. Compounding the problem, the company down-sized its repair and service center operations and eliminated overtime pay for a period of time.[33]

In its most recent annual report to shareholders (March 1996), Ameritech apparently did not view it service problems as a trend but rather as an aberration which it had identified and addressed satisfactorily.

> Last summer, our service did not always meet customers' expectations for quality and speed-nor did it meet our own high standards. We have apologized to our customers and taken all the necessary steps to restore service to the high levels customers expect from Ameritech. In 1995, we added nearly 4,000 employees in customer service positions, backed them up with new computer systems, and took other measures to get our service back on track and keep it there.[34]

A question has apparently been raised at the Commission as to whether in fact the storms were the problem, and/or whether the computers supposedly being relied on to solve the problem instead created or contributed to the problem.[35]

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[33] Customer Complaint Section and Consumer Information Section of the Michigan Public Service Commission, 1995 Activities, at p. 5. "A number of studies have found that only a small number of dissatisfied persons complain about unsatisfactory products or services." The MPSC reports for the period of January-September 1996 make clear that Ameritech Michigan's service quality problems are not decreasing. See also Table 29 of the March 1996 report depicting the sharp decline in Ameritech Michigan's construction budget.

[34] Ameritech Annual Report to Stockholders, at 4-5. (March 1996).

[35] In its follow-up report to the one filed March 25, 1994 which covered data through the third quarter of 1993, the FCC Common Carrier report on quality of service (March 22, 1996) discussed data from the 3rd quarter of 1995. Having discussed seasonal peaks, increased regulatory complaints, and some declines that might be due to changes in the way the companies were reporting their data, the conclusion was that trouble reports merited continued attention. Discussing variations among

For all the funds made available to Ameritech Michigan from rates and the deregulation of its depreciation, it is difficult to fathom why its network was so vulnerable. In any event, the problems were not an aberration.[36] They continue within Michigan and throughout the Ameritech region.[37]

The increases incidents of "fast busy" signals may signal how the network is being degraded instead of upgraded as anticipated by the legislature. It is particularly distressing to realize that a relatively new development may even represent a regression in how the network serves customers. In an effort to cut down on the cost of copper, local exchange companies are increasingly using

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companies it states at pp. 11-12, footnote 9,

> "Ameritech reports that it may have included troubles outside its regulated business or troubles that were not the fault of the company prior to 1994. Similar changes to remove certain classes of troubles being reported could explain some of the fluctuations in the data. Other causes for the fluctuation were not disclosed. No clear cause could be identified for recent outages; however, company procedural errors, conceivably associated with installations of new software, showed up in a few instances as being a significant factor."

[36] See January-September 1996 reports of the MPSC Customer Complaint and Consumer Information Sections.

[37] See, for example, Citizens Utility Board v. Illinois Bell Telephone Company filed before the Illinois Commerce Commission April 4, 1996 (the company's failure to meet service quality standards in Illinois and the resulting affect on the calculation of the price cap formula is the subject of current proceedings before that commission.); State of Wisconsin Public Service Commission vs, Wisconsin Bell, Inc. Case No. 96 CV0407 (1995); In the Matter of the Commission's Investigation Into Ameritech Ohio's Compliance With Rule 4901: 1-5-22 (D), Ohio Administrative Code, Concerning Answer Time Requirements. Case No. 94-1863-TO-COI. This month the Ohio Commission staff felt compelled to terminate what had been extensive negotiation settlements and request a hearing date so as to proceed with the investigation of Ameritech Ohio's serious and diverse service quality problems.

digital loop carriers (DLCs) in accordance with Bellcore's[38] TR303 DLC specification.

The DLC is essentially a remote toggle switch that can be configured to act as a concentrator. Instead of each customer having a dedicated private channel to the central office, the DLC "concentrates" customers in ratios that result in 4-10 customers, for example, essentially sharing one channel. The practical effect is that when one of the channels is in use, the next customer assigned by the concentrator to the same channel, will hear a fast busy signal when they try to place a phone call. This shift to DLCs, is an example of the use of advanced technology in a manner that is directly at odds with the government directive that the public switched network is to be improved, not degraded.

Recent Survey of Ohio Customers Mirrors Problems Throughout the Region. Service problems in Michigan are symptomatic of the behavior of other RBOCs as extensively described and discussed by the research arm of the National Association of Regulatory Commissions (NRRI).[39] The same NRRI team that produced the March 1996 report, was directed by the Ohio Public Service Commission to conduct an extensive customer survey of residential and business customers of Ameritech Ohio.[40] The results of that survey released in December

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38 Bellcore (Bell Communications Research) is a research arm of the nation's Bell telephone companies.

39 Telecommunications Service Quality, The National Regulatory Research Institute, March 1996.

40 Ameritech customer dissatisfaction is often not reflected in the survey results and performance statistics the company publishes. This is because of the skewed manner in which the survey questions are framed and the questionable interpretation of performance standards used by Ameritech companies. On January 16, 1997, the Ohio commission staff and consumer advocate's office formally challenged the accuracy of such company data as part of the current investigation being

1996, were completely consistent with the serious nature and degree of problems that haunt the Michigan market.[41] Although there are serious service quality problems in Illinois, when one compares the level of complaints against Ameritech Illinois, although at record high levels[42] are still less than reported by the MPSC even though there are approximately 2 million more access lines in Illinois than in Michigan.

3. Recent increases in service quality problems are the product of earlier developments. The prospect of competition creates dual economic incentives for pulling back on service quality especially for the customers least likely to experience the benefits of local competition. Clearly Michigan's legislature, commission and ratepayers have respectively provided the incentives and the funds for an improved network and top quality service. Yet the very prospect of competition that fueled the MTA and various Commission initiatives (similar to actions nationwide) was used in an unintended and perversely ironic manner. The RBOC response to prospective competition has been to neglect service quality.

At play are various economic principles. The dramatic cutback in economic regulation of Ameritech Michigan embodied in the MTA allows Ameritech Michigan to keep revenues accrued because of operational "efficiencies", even if those revenues are saved by cutting back on service. Second, and also in

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conducted by that Commission.

41 "Survey and Analysis of the Telecommunications Quality-of-Service Preferences and Experiences of the Customers of Ohio Local Telephone Companies", Ray W. Lawton, Ph.D., Associate Director, The National Regulatory Research Institute. Prepared under contract for the Public Utilities Commission of Ohio (July 15, 1996; released to the public December 1996).

42 Citizens' Utility Board vs. Illinois Bell, Case No. 96-0178. Direct testimony of Barbara Alexander on behalf of the Citizens' Utility Board at p. 15.

anticipation of competition, incumbent local exchange companies including Ameritech Michigan, are anxious to accrue maximum revenues now as funding sources for strengthening their competitive advantage. Unfortunately, cutting back on service quality is one of the fastest methods for obtaining such revenue.[43]

IV. **Ameritech Michigan is not in compliance with the competitive checklist.**

Although MCF does not have expertise to address the technical aspects of the various checklist points, an observation is in order. Regulators and the courts have not hesitated to interject common sense and everyday experience into their technical reviews related to competitive issues. Common sense and everyday experiences need not be excluded from this verification review process when, as here, they are consistent with the law and the technical factors at issue.

As its evidence of Sec. 271 checklist compliance, Ameritech Michigan points to literally reams of paper that are interconnection and resale agreements aimed at opening up aspects of the local bottleneck. So far their aim is poor. The ink is barely dry on many of those agreements; questions have now been raised as to whether some submitted are the accurate documents; and questions have been raised about the accuracy of Ameritech Michigan's characterization of other agreements. Ameritech Michigan contends that Sec. 271 (c) (1)(2) (b) is satisfied by the existence of agreements if they cover the items on the competitive checklist. A LEC is not in compliance with the Sec.271 checklist requirement unless it is also providing access and interconnection. The interconnection and resale agreements call for more than the existence of a competitor; Ameritech

[43] Baby Bells Face A Tough Balancing Act: Reputation for Service Is On the Line Amid Deep Staff Cuts, Wall Street Journal, 4 Jan., 1996,A2.

Michigan must perform in accordance with those agreements so that there is substantial performance with its mandate to provide access and interconnection, as required by Sec. 271 (c)(1)(a).

By way of analogy, consider the sale of a restaurant which includes provisions requiring the seller to remove its equipment, paint the walls after settlement, and remove heavy machinery that is blocking all of the entries. At the time of settlement, all of the documents may well be assembled, executed, and even ownership transferred. That does not mean there has been substantial compliance with the agreement. It is standard business practice to require that the seller demonstrate compliance with the other agreement items including those necessary so that the buyer can use the property for its intended purpose. When some terms cannot be performed by the time of closing, a reasonable amount of the sales proceeds is typically withheld to serve as an incentive and reward for full compliance. Sound business practice and common sense compel that practice.

In the case of Ameritech Michigan, the written interconnection and resale agreements are not enough to demonstrate compliance. Ameritech Michigan must perform according to their terms. The reward (entry into long distance) cannot be given until there is substantial compliance with the agreements, and until it is shown that Ameritech Michigan is not responsible for any items that are keeping competitors from their intended local telephone business.

To justify withholding long distance entry authority until there is substantial performance, one does not have to rely only upon analogous legal principles, common sense or customary business practice. The legislative history itself is clear.

> For purposes of new section 271 (C)(1)(A), the BOC must have entered into one or more binding agreements under which it is providing access and interconnection to one or more competitors providing telephone exchange service to residential and business subscribers. The requirement that the BOC 'is providing access and interconnection' means that the competitor has implemented the agreement and that the competitor is operational.

> This requirement is important because it will assist the appropriate State commission in providing its consultation under new section 271 (d)(2)(B) that the requesting BOC has fully implemented the interconnection agreements set out in the 'checklist' under new section 271 (c)(2). House Conference Report No. 104-458, at 148. [emphasis supplied.]

Obviously residential ratepayers have a strong stake in ensuring that there be full compliance with the checklist for all of the reasons already discussed. As to some of the specific checklist points, however, it would be easy to conclude that the infinite technical and economic details encompassed in the competitive checklist are of direct interest only to engineers and economists and are considered too remote from the practical day-to-day experiences of residential customers to be of concern. That is not the case.

In reality many of the issues commented on by other parties are precisely the practical nitty gritty details that can be significant in motivating longstanding monopoly customers to either switch or stay, if in fact a choice is even theoretically available. Delays associated with being listed with directory assistance; delays being listed in the directories; delays in having a new number assigned are all relevant to effective strategies for stifling competition.

It is also disturbing to learn, for example, that Ameritech Michigan customers who contact the company to obtain information necessary for switching to Brooks Fiber, often find themselves immediately engulfed by the sales fleet at Ameritech, anxious to keep them on board even if that means making unfair and unfounded disparaging comments about the competitor. Apparently Ameritech is boldly and routinely taking inquiries from its customers, questions posed in anticipation of switching carriers, and then immediately sharing that information with the sales team of an unregulated operation. This illustrates not only its unfair monopoly advantage, but exemplifies the precise privacy and customer premises network information (CPNI) concerns that consumer advocates and public policy makers have been raising for years.

MCF would like to comment on but a few examples of residential and competitor parallel frustrations associated with the checklist.

A. Number Portability/Dialing Parity

Both are essential tools for consumers desirous of competition. As discussed above, not only has Ameritech Michigan failed to abide by various MPSC Orders, it has sued to prevent them, and the dialing parity issue must still be resolved by the Michigan Supreme Court.

B. Emergency Services[44]

Reliable access to emergency telephone service (E911) is also a critical public policy concern. Those responsible for health care delivery systems insist that one necessary method for cutting health care costs is to increasingly shift from hospital to home care. That factor plus the swelling ranks of the aged population are but two illustrations that demonstrate that society will have a growing need to ensure that dependable E911 service will be available to all who must rely upon it.

Consistent with the public interest, convenience, and necessity, the state must ensure that an accurate data base is maintained. The state must further ensure that E911 emergency services are available with the same level of speed and accuracy regardless of whether wire, wireless, cable, or some other telecommunications technology is used and regardless of whether provided by an incumbent or competitive local exchange service provider.

Market forces create no incentive for an incumbent local service exchange provider to expeditiously update its data base to reflect changed information about

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[44] Item (vii) Nondiscriminatory access to emergency services, directory assistance and operator call completion services.

customers who have elected to switch their service to a competitive local exchange provider. The City of Southfield has a complaint pending before the MPSC which illustrates why market forces are inadequate to protect residential ratepayers. On the basis of this unsatisfied checklist item alone, Ameritech Michigan's Application should be denied.

V. Ameritech Michigan entry into long distance before there is effective local competition poses more risks than benefits for long distance customers.

Ameritech's Application at p. 84 identifies the anticipated benefits to long distance customers from its entry into that market: "competitive prices, expanded service offerings, and responsive customer service." There is an almost perverse irony in reading such a list if one is a local residential customer of Ameritech Michigan. This is market Ameritech insists is already competitive for local service. Yet Ameritech Michigan cannot even deliver to its local customers the "benefits" it claims are around the corner for its future long distance customers. One cannot help but wonder why their priorities are so backward. In light of Ameritech Michigan's abysmal record in its local service operations for prices, expanded service and service quality, such promises are devoid of credibility.

More importantly, whatever benefits long distance customers might realize would be more than offset by the increased local rates that would result from its premature entry into long distance. This is precisely what happened at divestiture. This resulted not because divestiture was not in the public interest. It was. Those baseless local rate hikes resulted from regulatory failure, the inability or unwillingness to reject local rate hike requests that were inappropriately defended as the product of the breakup of Ma Bell. Because local rates were raised unjustly by an average 40% nationwide within the first few years of divestiture, those increases were dramatically higher than any savings realized from long distance competition. Most of each dollar that a family spends on their telephone service is for calls made within the state, not long distance. That is the side of the ledger sheet which dominates their budget and their concern.

If Ameritech Michigan is allowed into long distance at a time when the local bottleneck has not been broken, it will be presented with a staggering opportunity and incentive for cross-subsidization. And it would be the excessive rates from local calls that would subsidize those attractive at first lower long distance rates. Even in the short run that is no consumer bargain. And in the long run, such anticompetitive behavior would drive out some competitors and draw others into mergers, thus having an ultimate cartel--not competitive--effect.

VI. Additional public interest, convenience and necessity considerations: entry into long distance is premature before important safeguards are in place and enforcement resources made available. Monopoly revenue streams that are still in place must be removed.

A. Important safeguards are not yet in place and would be rendered meaningless by Ameritech Michigan's entry into long distance at this time. The resources necessary for enforcement are not in place even as various issues of immediacy related to cross-subsidization must be addressed.

Various structural and non structural safeguards contained in the federal act, including critical protections related to separate affiliates and cross-subsidization, have not yet been put in place; various rules necessary for the Michigan Public Service Commission to ensure enforcement are either not yet in place or have been challenged by Ameritech Michigan and await appellate determination.

1. <u>Expanded opportunities for cross-subsidization</u>

MCF calls on the Commission to recognize the threat of cross-subsidization as one of the most critical consumer issues of the federal act. Consumer advocates and regulators fought hard for the inclusion of Sec. 272's safeguards. The Sec. 272 requirements are expressly included in the Sec. 271 review. From a review of

Ameritech's Application it clear that at most they are promising prospective compliance rather than a demonstration of current compliance as required. Each new competitive service brings additional opportunities to engage in improper cross-subsidization, whereby costs associated with those offerings are shifted to the rates of basic service customers who do not subscribe to them. When the customers of noncompetitive services are forced to absorb costs that should be borne by investors or the customers of those competitive services, competitors are put at a disadvantage and captive customer rates remain excessive.

2. <u>Ameritech's track record for such improprieties is not encouraging</u>.[45] Captive local ratepayers are the direct and indirect deep pocket for many activities having nothing to do with serving their needs. The MPSC has not even audited this local

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[45] 1. "Review of Affiliate Transactions at Ameritech Services, Inc.," performed at the direction of NARUC by the joint audit team of the Public Utilities Commission of Ohio and the Public Service Commission of Wisconsin. (May 1995) <u>The Michigan Public Service Commission refused to cooperate with this audit</u>.

<u>Among the audit findings</u>: the affiliate failed to provide sufficient written documentation to allow the audit team to analyze and substantiate to the audit team's satisfaction, its rationale for the apportionment of costs between the regulated and unregulated affiliate services; findings of improper billing of overhead costs; finding that all costs that were not listed in the Ameritech Cost Allocation Manual were allocated to regulated operations; various failures to bill nonregulated affiliates for development costs; incorrect charging of competitive services to the wrong account with the result that nonregulated activity was assigned to regulated operations; possible improper accounting treatment when employees of the regulated local phone companies were transferred to the affiliate.

2. The Wisconsin Commission staff in its audit of Ameritech corporate headquarters in 1989 found a host of similar problems.

3. Similar findings were included in the FCC Audit in 1991 which revealed that Ameritech, Southwestern Bell and BellSouth had failed to exclude lobbying expenses from rates as required. (In its findings the FCC found that lobbying expenses had also improperly been passed on to ratepayers in 1989.)

exchange company since 1981!

> By shifting costs to the local phone company and profits to subsidiaries beyond a regulator's full view, Ameritech and other Baby Bells could subsidize foreign investment in New Zealand or China, or speculative land deals like the now bankrupt multimillion dollar plan by actress Kim Basinger to develop a tiny town in Georgia. (In fact, pension-plan funds, which are factored into [Ameritech] phone rates, were used to underwrite this loser.)[46]

3. Attention should be paid to what the telephone monopolies fear from electric company cross-subsidization. It is what consumers fear from them both. The RBOCs are in a particularly strong position to understand the significance of strict structural and non-structural safeguards. In fact a RBOC witness testified[47] as to the importance of: fully separate subsidiaries with separate books and accounts, records and functions; restrictions on affiliate transactions; strict accounting standards; periodic independent audits; reporting requirements; and vigorous enforcement. There is a certain irony in RBOC testimony urging tough, specific and strictly enforced accounting standards against cross-subsidization.

What was the occasion? Fear that if their potential electric utility competitors entered the telecommunications market, monopoly electric companies would know how to use monies from their captive electric customers to subsidize their new telephone activities. Perhaps this is a telling variation of an old axiom, "It takes a monopoly to know what a monopoly is capable of doing," but certainly the recommendations of that RBOC testimony merit great weight as the product

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[46] See Attachment C, "They Don't Care. They Don't Have to. They're...THE PHONE COMPANY", Lawrence Budd, The 1995 Kiplinger Report.

[47] Designated to testify on behalf of RBOCs, Herschel L. Abbot, Jr., general counsel of BellSouth, before the Subcommittee on Energy and Power and the Subcommittee on Telecommunications and Finance of the Energy and Commerce Committee of the U.S. House of Representatives. (July 29, 1994)

of insider expertise.

4. Important rules are not yet in place. In this regard the Commission has only recently[48] begun the process of formulating the rules necessary to protect against cross-subsidization. Yet it is required within 90 days of a Sec. 271 application to make a determination as to whether the applicant is in compliance with Sec. 271 provisions and 272's Separate Affiliate safeguards. Thus, the very safeguards it would use as its measuring rod will not even be finalized within that 90 day period. Furthermore, nothing in the Submission or Application suggests that Ameritech Michigan would agree to the application of such rules retroactively. Yet that is a minimum approach that should be required so as to provide some assurance of necessary accountability. Anything less would render meaningless the prohibition against cross-subsidization that is expressly contained in the MTA and the federal act.

5. Some cross-subsidization issues are of immediacy.

a. ACI Transactions In docket UR-11053, the MPSC highlighted the public policy issues related to improper affiliate behavior. The record in this current docket suggests concerns about the propriety of ACI/Ameritech Michigan activity to date that highlight the need to have ACI and Ameritech Michigan's books carefully examined before long distance authority is granted. Although ACI is not even in business, according to Ameritech Michigan it has almost 500 employees; ACI has received what is characterized as a $90 million "loan" from Ameritech Michigan which was never reported as required; and ACI has already put state of the art equipment and materials in place.

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[48] FCC First Report and Order and Further Notice of Proposed Rulemaking. "In the Matter of Implementation of the Non-Accounting Safeguards of Sections 271 and 272 of the Communications Act of 1934,"as amended." (released December 24, 1996.)

b. Allocation of Long Distance Customers' Share of the Costs For example, before entry into long distance takes effect, final pricing and costing rules must be put in place at the federal and state levels and sufficient enforcement resources committed to ensure, for example, that an appropriate portion of Ameritech Michigan's joint and common costs are shared by its long distance customers.

6. Enforcement resources are needed. MCF is not suggesting that Ameritech Michigan's entry into long distance should be barred simply because it could increase the opportunity and incentive for cross-subsidization. MCF does argue that entry should not be allowed until final rules are in place to minimize that risk; if necessary those rules must be applied retroactively to capture any ratepayer monies improperly expended on ACI. MCF also argues that if accounting and other safeguards are in place, but without adequate staff resources, meaningful record retention and record disclosure rules, the safeguards will be meaningless. As a practical matter, the prohibition against cross-subsidization in federal act evaporates if it is not enforced and if relevant data is not made publicly available so that competitors and consumers can pursue redress.

Currently the MPSC and the Commission do not collect the meaningful data necessary to protect ratepayers against cross-subsidization and do not make meaningful data publicly available for review. Even before the many new responsibilities assigned to the Commission under the federal act, the General Accounting Office (GAO)[49] had reported on its extensive findings that the Commission simply did not have the resources necessary to track cross-subsidization, even as problems continuously surfaced. For example, just one Commission on-site audit uncovered $300 million that neither CPA audits nor

[49] "Telecommunications, FCC's Oversight Efforts to Control Cross-Subsidization" (GAO/RCED-93-94) February 1993.

Commission's reviews of the audits had found.[50]

B. Commission delays in halting LEC monopoly revenue streams do not promote competition.

Quite distinct from any language or responsibilities in the federal act, the Commission is seriously behind schedule in turning back RBOC monopoly revenue streams. It is unthinkable that at the starting gate of entering long distance competition, Ameritech Michigan or any LEC would be allowed to be awash with extra money made possible by the collection of monopoly rates that are excessive and unfair.

1. Excessive Access Charges

Interstate access charges should be decreased before long distance entry is allowed. For the first time ever those charges were raised last year (July 1, 1996). That increase was the result not of thoughtful regulatory review, but essentially by default because of the Commission's failure to act on the record before it. It is estimated that nationwide, interstate access rates are excessive by an amount of at least $15 billion annually.

Because Michigan intrastate access charges mirror the interstate access charges, Michigan regulator hands are tied and those intrastate access charges cannot be lowered even though those rates, too, are excessive. As long as the RBOCs, including Ameritech, are allowed to collect and retain those monies, these funds are kept out of ratepayer pockets where they belong, and these funds would provide Ameritech Michigan with a particularly unfair competitive advantage if it were allowed entry into long distance. As Ameritech Michigan would continue to charge competitor IXCs with current access charges, it would have the opportunity and incentive to charge itself less (and thus offer lower long distance

50 Id. at 2

rates). Its rationale would be an assertion that the cost of providing access to itself is lower than the cost of providing access to a competitor.

2. Adjusted Price Cap Formula

Before long distance entry is authorized the price cap formula by which Ameritech Michigan's interstate rates are set must be adjusted downward, minimally through a lowered rate of return and increased productivity factor. The failure to finalize this docket is estimated to be costing consumers nationwide almost $2 billion annually.

C. Diversification engenders new concerns

1. Diversification as a management distraction from core business and network needs. Another ratepayer concern about Ameritech Michigan's increasing numbers of activities and affiliates is that these activities and priorities may be distracting Ameritech management from tending to the proper repair and maintenance of the core public switched network. Ameritech Michigan makes much of its dedication to being responsive to consumers' "demand" for "one-stop shopping". The management and consultants to such corporate giants as Mobile Oil and Sears (and many more) were convinced that the phenomenon of diversification and/or one-stop shopping was likewise an inevitably sound strategic goal to which enormous amounts of talent and revenue were channeled. They learned the hard way that the market (consumers) did not agree. Even electric utility enthusiasm for diversification in the 1980's was tamed by lackluster market performance.

Many a corporation has had to scramble to unload subsidiaries, divisions and diversified operations that turned out to have been damaging distractions to management's attention to its core business. It would appear that the companies which were least prepared for certain marketplace realities were those located in segments of the economy notorious for cartel pricing or less than vigorous competition.

That pattern does not bode well for Ameritech, especially as noted in analyses of its disinvestment. Non-Bell subsidiary operations other than cellular and Yellow Pages, have been performance "duds" that could probably not have survived in the competitive marketplace but for the infusion of funds made available to them by virtue of their relationship to a monopoly.[51]

2. Diversification increases liability exposure that inherently puts ratepayers at risk.

The insurance/liability exposure aspect of the transition from a regulated monopoly to a market-driven environment has received scant if any public attention, even though it may require a seismic shift in how the operations of an RBOC are insured. As monopolies they have been insulated from various liability exposures through tariffs and statutory exemptions. For the background and examples of current high risk operations, see Attachment A. Now that they are demanding to be full players in the competitive market there is reason to be concerned that they are not taking prudent steps to limit that exposure. Consider the escalating number of activities that Ameritech is now spawning, each of which inherently entails liability exposure for Ameritech, the parent holding company of Ameritech Michigan. See Attachment A.

One might think that such operations and potential liability exposure are irrelevant to the pocketbooks of the Ameritech Michigan ratepayer. They are relevant for at least two reasons. First, there is the above-described concern

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[51] Patterns of Investment by the Regional Bell Holding Companies, An Examination of the sources of financing and the relative performance of the Bell Operating Company and the non-BOC RBHC businesses, (May 1993) and January 1996 Revision, Economics and Technology, Inc.